

Internal

From: Paul Baker
To: Berry, Emily; Berry, Penny; Kunzler, Lynn
Date: 3/13/2012 2:51 PM
Subject: Emma Park Permit

We received an amendment for the Nielson Construction Limestone Mine (S/049/0052), and the cover letter withdraws the Emma Park application (M/049/0073). Emil and Penny--Any tasks associated with this large mine should be classified as withdrawn, and we need to close this on Fox Pro. Thank you.

Paul Baker
Minerals Program Manager
Utah Division of Oil, Gas and Mining
801-538-5261
Fax 801-359-3940
Normal work hours MTWF 7 AM to 6 PM; off Thursdays.
Office hours M-F 8 AM to 5 PM

Penny Berry - S0490052 Nielson Construction

From: Penny Berry
To: Lynn Kunzler
Date: 9/8/2011 12:02 PM
Subject: S0490052 Nielson Construction
CC: Paul Baker

Hi Lynn,

This is a reminder to contact the operator. The operator provided a NOI-LMO on 3/1/2010 and it was determined that we would issue a new permit number for the LMO (M0490073). At that time you were sent an email asking you to let the operator know of the permit number change. We received an increase to the surety, we now have an aggregate amount of \$37,500. The operator provided a MRRC for the LMO, however he did not sign it and it shows permit number M0490052. Please let me know when you do this, so I can clean this up. Thanks.

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION of OIL, GAS and MINING
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5291
Fax: (801) 359-3940

RECEIVED
MAR 01 2010
DIV. OF OIL, GAS & MINING

This is
changing to
an M 0490073
John Nielson

---ooOoo---

LARGE MINE RECLAMATION CONTRACT

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between **Nielson Construction** the "Operator" and the Utah State Division of Oil, Gas and Mining ("Division").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. S/049/0052 which has been approved by the Division under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (2005, as amended) (hereinafter referred to as "Act") and the regulations adopted pursuant to the Act; and

WHEREAS, Operator is obligated to reclaim the land affected by the mining operations in accordance with the Act and regulations, and the Operator is obligated to provide a surety in form and amount approved by the Division or the Board of Oil, Gas and Mining (Board) to assure reclamation of the lands affected by the mining operations.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Division and the Operator agree as follows:

1. Operator agrees to promptly reclaim in accordance with the Act and regulations, as they may be amended, and in accordance with the mining and reclamation plan (Reclamation Plan) approved by the Division all of the lands affected by the mining operations conducted or to be conducted pursuant to the approved Notice of Intention.
2. The Lands Affected by the mining operations and subject to the requirements of the Act and this Contract include:

- A. All surface and subsurface areas affected or to be affected by the mining operations including but not limited to private on-site ways, roads, railroads; land excavations; drill sites and workings; refuse banks or spoil piles; evaporation or settling ponds; stockpiles; leaching dumps; placer areas; tailings ponds or dumps; work, parking, storage, and waste discharge areas, structures, and facilities; and
 - B. All mining disturbances regardless of discrepancies in the map and legal description, unless explicitly and clearly identified as EXCLUDED on maps, and legal descriptions included in the approved NOI; provided lands may be excluded only if: (1) they were disturbed by mining operations that ceased prior to July 1, 1977; (2) the lands would be included but have been reclaimed in accordance with an approved notice or reclamation plan; or (3) the lands were disturbed by a prior operation for which there is no surety, no legally responsible entity or person, and which lands are not necessarily or incidentally intended to be affected by the mining operations as described in the approved NOI.
- 3. The Reclamation Plan is intended to establish methods, plans, specifications, and other details required by the Act and regulations as they pertain to the lands affected by mining operations, and no provision of the Reclamation Plan shall be interpreted to diminish the requirements of the Act and regulations. The Operator shall be responsible for reclamation of all such Lands Affected regardless of errors or discrepancies in the maps or legal descriptions provided with the NOI or Reclamation Plan, which are primarily intended to assist in determining the location of the mining operations, to describe the areas of disturbance, and to assist estimating the amount of surety required.
- 4. The Operator prior to commencement of any mining operations and as a precondition to the rights under the Notice of Intention shall provide a surety in a form permitted by the Act and in an amount sufficient to assure that reclamation of the Lands Affected will be completed as required by the Act. The Surety shall remain in full force and effect according to its terms unless modified by the Division in writing. A copy of the agreement providing for the Surety for the reclamation obligations herein is included as **ATTACHMENT A** to this Contract.
- 5. If the Surety expressly provides for cancellation or termination for non-renewal:
 - A. The Operator shall within 60 days following the Division's receipt of notice that the Surety will be terminated or cancelled, provide a replacement Surety sufficient in a form and amount, as required by the Act, to replace the cancelled surety; or

B. If the Operator fails to provide an acceptable replacement Surety within 60 days of notice of cancellation or termination, the Division may order the Operator to cease further mining activities, and without further notice proceed to draw upon letters of credit, to withdraw any amounts in certificates of deposit or cash and/or other forms of surety, and to otherwise take such action as may be necessary to secure the rights of the Division to perfect its claim on the existing surety for the purpose of fully satisfying all of the reclamation obligations incurred by the Operator prior to the date of termination, and the Division may thereafter require the Operator to begin immediate reclamation of the Lands Affected by the mining operations, and may, if necessary, proceed to take such further actions as may be required for the Division to forfeit the surety for the purpose of reclaiming the Lands Affected.

6. The Operator's liability under this Contract shall continue in full force and effect until the Division finds that the Operator has reclaimed the Lands Affected by mining operations in accordance with the Act, the regulations, and the Reclamation Plan, as they may be amended. If the mining operations are modified or for any other reason vary from those described in the approved Notice of Intention, the Operator shall immediately advise the Division, and the Notice of Intention shall be revised and the Surety amount shall be adjusted as necessary.
7. If reclamation of a substantial phase or segment of the Lands Affected by the mining operations is completed to the satisfaction of the Division, and the Division finds that such substantial phases or segments are severable from the remainder of the mining area, Operator may request the Division to find that Operator has reclaimed such area. If the Division makes such finding, Operator may make request to the Division for a reduction in the aggregate face amount of the Surety, and the Division may reduce the surety to an amount necessary to complete reclamation of the remaining mining operations as anticipated by the approved Notice of Intention in accordance with the requirements of the Act and regulations, as amended and the Reclamation Plan, as amended. If the Division makes such finding, Operator may make request to the Division for a reduction in the amount of the surety. The Division, or the Board if the surety is in the form of a board contract, may permit such a reduction if it determines that the reduced amount will be adequate to ensure complete reclamation of the lands affected by the mining in accordance with the requirements of the Reclamation Plan, the rules and the Act, as amended.
8. Operator may, at any time, submit a request to the Division to substitute surety. The Division may approve such substitution if the substitute surety meets the requirements of the Act and the rules.
9. Operator agrees to pay all legally determined public liability and property damage claims resulting from mining operations, to pay all permit fees, to

maintain suitable records, to file all required reports, to permit reasonable inspections, and to fulfill all sundry reporting requirements applicable to the mine as required by the Act and implementing rules.

10. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
11. If Operator shall default in the performance of its obligations hereunder, Operator shall be liable for all damages resulting from the breach hereof including all costs, expenses, and reasonable attorney's fees incurred by the Division and/or the Board in the enforcement of this Contract.
12. Any breach of a material provision of this Contract by Operator may, at the discretion of the Division, in addition to other remedies available to it, result in an order by the Division requiring the Operator to cease mining operations, and may thereafter result in an Order, subject to an opportunity for notice and hearing before the Board, withdrawing and revoking the Notice of Intention, and requiring immediate reclamation by the Operator of the Lands Affected or forfeiture of the Surety.
13. In the event of forfeiture of the Surety, Operator shall be liable for any additional costs in excess of the surety amount that is required to comply with this Contract. Upon completion of the reclamation of all of the Lands Affected, any excess monies resulting from forfeiture of the Surety shall be returned to the rightful claimant.
14. The Operator shall notify the Division immediately of any changes in the Operator's registered agent, the Operator's address, form of business, name of business, significant changes in ownership, and other pertinent changes in the information required as part of the Notice of Intention. Notwithstanding this requirement, any changes to the Notice of Intention, and any errors, omissions, or failures to fully or accurately complete or update the information on the Notice of Intention, or the attached maps, shall not affect the validity of this Contract and the rights of the Division to enforce its terms.
15. If requested by the Division, the Operator shall execute addendums to this Contract to add or substitute parties, or to reflect changes in the Operator, Surety, and otherwise modify the Contract to reflect changes in the mining operations as requested by the Division. All modifications must be in writing and signed by the parties, and no verbal agreements, or modifications in any of the terms or conditions shall be enforceable.
16. This Contract shall be governed and construed in accordance with the laws of the State of Utah.

OPERATOR:

By _____
Authorized Officer (Typed or Printed)

Date _____

On the _____ day of _____, 20____, _____
 _____ personally appeared before me, who being by me duly sworn did say that
 he is an _____ (i.e. owner, officer, director,
 _____, agent or other (specify)) of the Operator and duly acknowledged that
 the instrument was signed on behalf of said Operator by authority of its bylaws,
 resolution of its board of directors, or as may otherwise be required to execute
 the same with full authority and to be bound hereby.

My Commission Expires:

DIVISION OF OIL, GAS AND MINING:

By _____
John R. Baza, Director Date _____

STATE OF _____)
COUNTY OF _____) ss:

On the _____ day of _____, 20 __, _____
_____ personally appeared before me, who being duly sworn did say that he,
the said _____ is the Director of the Division of
Oil, Gas and Mining, Department of Natural Resources, State of Utah, and he
duly acknowledged to me that he executed the foregoing document by authority
of law on behalf of the State of Utah.

Notary Public

Residing at: _____

My Commission Expires:

FACT SHEET

Commodity: Lime stone

Bonded Acres: 32 total Acres, 10 – 15 open at one time

Mine Name: Nielson Construction Emma Park Pit

Permit Number: S/049/0052

County: ~~Carbon~~ Utah

Operator Name: Nielson Construction

Operator Address: PO Box 620, Huntington UT 84528

Operator Phone: (435)687-2494

Operator Fax: (435)687-9721

Operator Email: waynmc@nielsonconstruction.com

Contact Name: Wayne McCandless

Contact Email: waynmc#nielsonconstruction.com

Contact Phone: (435)687-2494, Cell (435)749-0858

Surety Type: Reclamation Bond

Bank: Liberty Mutual

Surety Amount: \$17,000.00

Account number: Bond

Tax ID (required for cash only): _____

Escalation year: _____

Surface Owner: James T. Jensen

Mineral Owner: Utah State Trust Lands

UTU/ML number: _____

***DOGM Contact: Penny Berry, State of Utah, Division of Oil Gas and Mining, 801 538 5291 or
bondcoordinator@utah.gov